Supreme Court, U.S.
FILED

961433 MAR 1 1 1997

OFFICE OF THE CLERK

No. 96-

In the Supreme Court of the United States

OCTOBER TERM, 1996

MARION S. BARRY, JR., *et al.*,
Petitioners,

v.

LASHAWN A., BY HER NEXT FRIEND, EVELYN MOORE, *et al.*,
Respondents.

Statutory Appendix to Petition for a Writ of Certiorari to the United States Court of Appeals for the District of Columbia Circuit

JO ANNE ROBINSON
Interim Corporation Counsel

CHARLES L. REISCHEL
Deputy Corporation Counsel
Appellate Division

*DONNA M. MURASKY
Assistant Corporation Counsel

Office of the Corporation Counsel
One Judiciary Square
Sixth Floor South
441 Fourth Street, N.W.
Washington, D.C. 20001
Telephone: (202) 727-6252 ext. 3303

**Counsel of Record*

26 pp

TABLE OF CONTENTS

Page

DISTRICT OF COLUMBIA CODE

Youth Residential Facilities Licensure Act (Title 3)

§ 3-801 1
§ 3-808 1

Prevention of Child Abuse and Neglect Act of 1977 (Title 6)

Descriptive Table of Contents 2

Subchapter I — Reporting Abuse and Neglect 2

Subchapter III — Child Protective Services Division 2

Subchapter I:

§ 6-2101 2
§ 6-2102 3
§ 6-2103 3
§ 6-2105 4

Subchapter III:

§ 6-2121 4
§ 6-2123 5
§ 6-2124 5

District of Columbia Court Reform and Criminal Procedure Act of 1970, Pub. L. 91-358, 84 Stat. 473 (Title 11)

§ 11-101 7
§ 11-102 7
§ 11-1101 8

Family Division Proceedings (Title 16)

Descriptive Table of Contents 8

Subchapter I — Proceedings Regarding Delinquency, Neglect, or Need of Supervision 8

Subchapter III — Proceedings Regarding the Termination of Parental Rights of Certain Neglected Children 9

TABLE OF CONTENTS (continued)

Page

Subchapter I:

§ 16-2301 9
§ 16-2304 11
§ 16-2312 11
§ 16-2313 13
§ 16-2316 14
§ 16-2317 14
§ 16-2319 15
§ 16-2320 16
§ 16-2322 17
§ 16-2323 18

Subchapter III:

§ 16-2351 19
§ 16-2352 20
§ 16-2353 20
§ 16-2355 21
§ 16-2356 22
§ 16-2360 22

In the Supreme Court of the United States

OCTOBER TERM, 1993

SHARON PRATT KELLY, *et al.*,
Petitioners,

v.

LASHAWN A., BY HER NEXT FRIEND, EVELYN MOORE, *et al.*,
Respondents.

Statutory Appendix to
Petition for a Writ of Certiorari
to the United States Court of Appeals
for the District of Columbia Circuit

TITLE 3

CHAPTER 8. YOUTH RESIDENTIAL FACILITIES LICENSURES.

D.C. Code § 3-801. Definitions.

For the purposes of this chapter, the term:

* * *

(3) "Court" means the Superior Court of the District of Columbia. . . .

D.C. Code § 3-808. Enforcement and penalties.

* * *

(d) (1) Notwithstanding the availability of any other remedy, a resident, any person acting on or in behalf of a resident, or the licensee or administrator of a facility may bring an action in court for mandamus to order the Mayor, a District government agency, or the youth residential monitoring committee to comply with this chapter, a rule issued pursuant to this chapter, or any other District law relevant to the operation of the facility or the care of its residents.

(2) Any person bringing an action under paragraph (1) of this subsection shall give the named defendant(s) at least 5 days advance notice (excluding Saturdays, Sundays, and legal holidays) before the action is filed in court.

TITLE 6

CHAPTER 21. CHILD ABUSE AND NEGLECT.

Subchapter I. Reporting Abuse and Neglect.

Sec.
6-2101. Definitions.
6-2102. Handling of reports — By Division.
6-2103. Same — By police.
6-2104. Investigation.
6-2105. Removal of children.
6-2106. Photographs and radiological examinations.
6-2107. Social investigation; services; report.

Subchapter III. Child Protective Services Division.

6-2121. Establishment and purposes.
6-2122. Organization.
6-2123. Duties and responsibilities.
6-2124. Services authorized; custodial placement; removal of child.
6-2125. Medical treatment authorized.
6-2126. Confidentiality of records and information.
6-2127. Unauthorized disclosure of records.

Subchapter I. Reporting Abuse and Neglect.

D.C. Code § 6-2101. Definitions.

For the purposes of this act:

* * *

(3) Except where used in Title IV of this act, "Division" means the Child Protective Services Division of the District of Columbia Department of Human Services.

* * *

(5) "Police" means the Metropolitan Police Department of the District of Columbia.

(6) "Report" means a report to the police or the Division of a suspected or known neglected child.

* * *

(8) "Supported report" means a report, made pursuant to § 2-1353, which is supported by credible evidence.

(9) "Unsupported report" means a report, made pursuant to § 2-1353, which is not supported by credible evidence.

D.C. Code § 6-2102. Handling of reports — By Division.

(a) Upon the receipt of an oral report, the Division shall immediately inform the police of the contents of the report, if it alleges a child is or may have been an abused child.

(b) The Division shall commence an investigation of all reports alleging neglect other than abuse within 24 hours of the receipt of the report except that when:

(1) A report alleges that a child is left alone or with inadequate supervision, the Division shall commence an investigation immediately. If the Division is unable to dispatch a worker to the child forthwith, it shall inform the police of the report;

(2) A report indicates the existence of an immediate danger to a child and the immediate removal of the child from his or her surroundings appears necessary despite the available resources, the Division shall inform the police of the contents of the report and request the police to investigate. The Division shall immediately commence a social investigation. . . .

D.C. Code § 6-2103. Same — By police.

* * *

(c) The police shall immediately after a report is received commence an investigation of the circumstances alleged in the report. . . .

D.C. Code § 6-2105. Removal of children.

(a) In cases in which a child is alleged to be a neglected, but not an abused, child the Division shall determine whether the child should be removed from the home or can be protected by the provision of services or resources. If in the opinion of the Division the available services or resources are insufficient to protect the child and there is insufficient time to petition for removal, the Division shall request the police to remove the child pursuant to §16-2309 (3) or (4).

(b) In all cases for which the police are responsible for the initial investigation but which do not involve an immediate danger to a child, the police shall seek from the Division and the Division shall provide assistance in the determination of whether the child can be protected by the provision of services or resources or whether removal is necessary. Whenever possible the Division shall dispatch a worker to the scene to provide assistance in this determination. . . .

Subchapter III. Child Protective Services Division.

D.C. Code § 6-2121. Establishment and purposes.

(a) There shall be maintained within the Department of Human Services a separate and distinct Division. The Division shall have as its purposes and functions:

(1) Safeguarding the rights and protecting the welfare of children whose parents are unable to do so;

(2) Offering highly specialized diagnostic and treatment services to families when there is specific harm to the child's physical or emotional well-being;

(3) Ensuring that neglected and abused children are protected from further experiences and conditions detrimental to their healthy growth and development; and

(4) Providing services on behalf of the child designed to help parents recognize and remedy the conditions harmful to the child and to fulfill their parental roles more adequately.

(b) The Division shall have no other function which is not directly related to its child protective service purpose, except

that the 24-hour intake unit may on an emergency basis, after normal office hours, offer crisis assistance to adults.

(c) The Department of Human Services shall support the purpose and function of the Division by obtaining substitute care for a child whose parents are unable, even with available help, to meet the child's minimum needs and, where appropriate, by providing to the family of such child services which are aimed at reuniting the family as quickly as possible.

D.C. Code § 6-2123. Duties and responsibilites.

(a) The Chief of the Division shall have the following duties and responsibilities, any of which may be contracted for with private or other public agencies:

(1) To receive and investigate reports of neglect as provided in § 103 of this act, and §§ 6-2102 and 6-2104 and to assist in the determination of the need for the removal of an abused child as provided in § 6-2105;

(2) Within 90 days of taking a child into custody pursuant to paragraph (1) of subsection (c) of § 6-2124, to return the child to the home or to request the filing of a neglect petition in the Family Division of the Superior Court of the District of Columbia; [and]

(3) To maintain a program of treatment and services for families of neglected and abused children. . . .

D.C. Code § 6-2124. Services authorized; custodial placement; removal of child.

(a) When an investigation made pursuant to §§ 6-2102 and 6-2103 indicates that a child is an abused or neglected child and in need of services, the Chief of the Division is authorized to provide or secure any necessary services which may include:

(1) Emergency financial aid;

(2) Temporary 3rd-party placement with responsible neighbors or relatives for the child and his or her siblings: Provided, that the person with whom the child is placed shall not be considered an agent of the Department of Human Services;

(3) Emergency caretaker(s) who enter the home and provide temporary care for the child and his or her siblings in appropriate cases, when the consent of the parent or other custodian cannot be obtained, notwithstanding the provisions of the Act of March 3, 1901, as amended (31 Stat. 1324);

(4) The placement of homemakers in the home to maintain the child and his or her siblings or to assist the parent or other caretaker in discharging his or her responsibilities to the child;

(5) Day care for the child and his or her siblings;

(6) Counselling services for the child and his or her family;

(7) Medical evaluation and/or emergency treatment of the child by a qualified physician; and

(8) Other appropriate services or resources available in the community.

(b) When an investigation indicates that a child has been left alone or with inadequate supervision and a 3rd-party placement cannot be made, the Division is authorized to make a temporary custodial placement of the child: Provided, that:

(1) Notice is left for the parent or custodian which shall state the procedure for reclaiming the child;

(2) Efforts continue to locate the parent;

(3) The child is returned forthwith upon the request of the parent or custodian, unless there is additional evidence of immediate danger to the child and police action is taken pursuant to § 16-2309 (3) or (4); and

(4) A complaint alleging neglect is filed with the Superior Court of the District of Columbia:

(A) At the end of 5 days if the parent or custodian fails to claim the child within that time; or

(B) Immediately upon the discovery of additional evidence of immediate danger to the child.

(c) When an investigation made pursuant to § 6-2102 or 6-2103 indicates that a child is an abused or a neglected child and when it has been determined that the child cannot be adequately protected by any of the services set forth in

subsection (a) or (b) of this section or by any other services, the Chief of the Division is authorized to:

(1) Remove the child with the consent of the parent, guardian, or other person acting in loco parentis;

(2) Request the Corporation Counsel of the District of Columbia to petition the Family Division of the Superior Court of the District of Columbia for a finding of neglect and, where appropriate, the removal of the child; and

(3) Request the police to remove the child when the consent of a parent, guardian or other custodian cannot be obtained and the need to protect the child does not allow sufficient time to obtain a court order.

TITLE 11

CHAPTER 1. GENERAL PROVISIONS.

D.C. Code § 11-101. Judicial power.

The judicial power in the District of Columbia is vested in the following courts:

(1) The following Federal Courts established pursuant to article III of the Constitution:

(A) The Supreme Court of the United States.

(B) The United States Court of Appeals for the District of Columbia Circuit.

(C) The United States District Court for the District of Columbia.

(2) The following District of Columbia courts established pursuant to article I of the Constitution:

(A) The District of Columbia Court of Appeals.

(B) The Superior Court of the District of Columbia.

D.C. Code § 11-102. Status of District of Columbia Court of Appeals.

The highest court of the District of Columbia is the District of Columbia Court of Appeals. Final judgments and decrees of the District of Columbia Court of Appeals are reviewable by the Supreme Court of the United States in accordance with section 1257 of title 28, United States Code.

CHAPTER 11. FAMILY DIVISION OF THE SUPERIOR COURT.

D.C. Code § 11-1101. Exclusive jurisdiction.

The Family Division of the Superior Court shall be assigned, in accordance with chapter 9, exclusive jurisdiction of —

* * *

(9) proceedings in adoption; [and]

* * *

(13) proceedings in which a child, as defined in section 16-2301, is alleged to be delinquent, neglected, or in need of supervision. . . .

TITLE 16

CHAPTER 23. FAMILY DIVISION PROCEEDINGS.

Subchapter I. Proceedings Regarding Delinquency, Neglect, or Need of Supervision.

Sec.

16-2301. Definitions.
16-2302. Transfer of criminal matters to Family Division.
16-2303. Retention of jurisdiction.
16-2304. Right to counsel; party status.
16-2305. Petition; contents; amendment.
16-2306. Service of summons and petition.
16-2307. Transfer for criminal prosecution.
16-2308. Initial appearance.
16-2309. Taking into custody.
16-2310. Criteria for detaining children.
16-2310.1 Separation of young children detained prior to a hearing.
16-2311. Release or delivery to Family Division.
16-2311.1 Rules.
16-2312. Detention or shelter care hearing; intermediate disposition.
16-2313. Place of detention or shelter.
16-2314. Consent decree.

16-2315. Physical and mental examinations.
16-2316. Conduct of hearings; evidence.
16-2317. Hearings, findings; dismissal.
16-2318. Order of adjudication noncriminal.
16-2319. Predisposition study and report.
16-2320. Disposition of child who is neglected, delinquent, or in need of supervision.
16-2321. Disposition of mentally ill or substantially retarded child.

Subchapter III. Proceedings Regarding the Termination of Parental Rights of Certain Neglected Children.

16-2351. Purpose of the subchapter; construction of provisions.
16-2352. Definitions.
16-2353. Grounds for termination of parent and child relationship.
16-2354. Motions.
16-2355. Consideration of termination of the parent and child relationship at review hearings.
16-2356. Parties.
16-2357. Notice.
16-2358. Conduct of hearings.
16-2359. Adjudicatory hearing.
16-2360. Disposition after termination.
16-2361. Effect of termination decree.
16-2362. Decrees.
16-2363. Confidentiality of records.
16-2364. Unlawful disclosure.
16-2365. Termination decrees of other jurisdictions.

Subchapter I. Proceedings Regarding Delinquency, Neglect, or Need of Supervision.

D.C. Code § 16-2301. Definitions.

As used in this subchapter —

(1) The term "Division" means the Family Division of the Superior Court of the District of Columbia.

(2) The term "judge" means a judge assigned to the Family Division of the Superior Court.

* * *

(9) The term "neglected child" means a child:

(A) who has been abandoned or abused by his or her parent, guardian, or other custodian; or

(B) who is without proper parental care or control, subsistence, education as required by law, or other care or control necessary for his or her physical, mental, or emotional health, and the deprivation is not due to the lack of financial means of his or her parent, guardian, or other custodian; or

(C) whose parent, guardian, or other custodian is unable to discharge his or her responsibilities to and for the child because of incarceration, hospitalization, or other physical or mental incapacity; or

(D) whose parent, guardian, or custodian refuses or is unable to assume the responsibility for the child's care, control or subsistence and the person or institution which is providing for the child states an intention to discontinue such care; or

(E) who is in imminent danger of being abused and whose sibling has been abused; or

(F) who has received negligent treatment or maltreatment from his or parent, guardian, or other custodian; or

(G) who has resided in a hospital located in the District of Columbia for at least 10 calendar days following the birth of the child, despite a medical determination that the child is ready for discharge from the hospital, and the parent, guardian, or custodian of the child has not taken any action or made any effort to maintain a parental, guardianship, or custodial relationship or contact with the child.

* * *

(14) The term "shelter care" means the temporary care of a child in physically unrestricting facilities, designated by the Division, pending a final disposition of a petition.

* * *

(16) The term "factfinding hearing" means a hearing to determine whether the allegations of a petition are true.

(17) The term "dispositional hearing" means a hearing, after a finding of fact, to determine — . . .

(B) what order of disposition should be made in a neglect case.

* * *

(23) The term "abused", when used with reference to a child, means a child whose parent, guardian, or custodian inflicts or fails to make reasonable efforts to prevent the infliction of physical or mental injury upon the child, including excessive corporal punishment, an act of sexual abuse, molestation, or exploitation, or an injury that results from exposure to drug-related activity in the child's home environment.

D.C. Code § 16-2304. Right to counsel; party status.

* * *

(b) (1) When a child is alleged to be neglected or when the termination of the parent and child relationship is under consideration, the parent, guardian or custodian of the child named in the petition or in a motion to terminate is entitled to be represented by counsel at all critical stages of the proceedings, and, if financially unable to obtain adequate representation, to have counsel appointed in accordance with rules established by the Superior Court of the District of Columbia. . . .

D.C. Code § 16-2312. Detention or shelter care hearing; intermediate disposition.

(a) When a child is not released as provided in section 16-2311 —

(1) a detention or shelter care hearing shall be commenced not later than the next day (excluding Sundays) after the child has been taken into custody or transferred from another court as provided by section 16-2302; and

(2) a petition shall be filed at or prior to the detention or shelter care hearing.

* * *

(c) At the commencement of the hearing the judge shall advise the parties of the right to counsel, as provided in section 16-2304, and shall appoint counsel if required. He shall also inform them of the contents of the petition and shall afford the child, or in a neglect case, the parent, guardian, or custodian, an opportunity to admit or deny the allegations in the petition. He shall then hear from the Corporation Counsel to determine whether the child should be placed or continued in detention or shelter care under the criteria in section 16-2310. The child and his parent, guardian, or custodian shall have a right to be heard in their own behalf.

(d) (1) At the conclusion of the hearing, the judge shall —

(A) order detention or shelter care, setting forth in writing his reasons therefor, if he finds that the child's detention or shelter care is required under the critera in section 16-2310; or

(B) order the child released if he finds that the child's detention or shelter care is not required under such criteria.

(2) If a child is ordered released under paragraph (1) (B) of this subsection, the judge may impose one or more of the following conditions:

(A) Placement of the child in the custody of a parent, guardian, or custodian or under supervision of a person or organization agreeing to supervise him.

(B) Placement of restrictions on the child's travel, activities, or place of abode during the period of release.

(C) Any other condition reasonably necessary to assure the appearance of the child at a factfinding hearing or his protection from harm, including a requirement that the child return to the physical custody of the parent, guardian, or custodian after specified hours.

(e) When a judge finds that a child's detention or shelter care is required under the criteria of section 16-2310, he shall then hear evidence presented by the Corporation Counsel to

detemine whether there is probable cause to believe the allegations in the petition are true. The child, his parent, guardian or custodian may present evidence on the issues and be heard in their own behalf.

(f) When a judge finds there is probable cause to believe the allegations in the petition are true, he shall order the child to be placed or continued in detention or shelter care and set forth his reasons. When a judge finds that there is not probable cause to believe the allegations in the petition are true, he shall order the child to be released.

(g) The Division at a detention or shelter care hearing may not postpone the determination of whether detention or shelter care is required. For good cause shown, however, the Division may grant a continuance of any other part of the hearing (including the filing of a petition) for a period not to exceed five days.

(h) On motion by or on behalf of the child, a child in custody shall be released from custody if his detention or shelter care hearing is not commenced within the time set herein.

(i) If a child is not released after his detention or shelter care hearing and the parent, guardian or custodian did not receive notice thereof, the Division may, in the interest of justice, conduct a new hearing in accordance with rules prescribed by the Superior Court.

(j) Upon objection of the child or his parent, guardian or custodian, a judge who conducted a detention or shelter care hearing shall not conduct a factfinding hearing on the petition.

D.C. Code § 16-2313. Place of detention or shelter.

(a) A child who is alleged to be neglected and who is in custody may be placed at any time prior to disposition, only in —

(1) foster home;

(2) a group home, youth shelter, or other appropriate home for nondelinquent children; or

(3) another facility for shelter care designated by the Division, including an appropriate facility operated by the District of Columbia. . . .

D.C. Code § 16-2316. Conduct of hearings; evidence.

(a) The Division shall, without a jury, hear and adjudicate cases involving delinquency, need of supervision, or neglect. The Corporation Counsel shall present evidence in support of all petitions arising under this subchapter and otherwise represent the District of Columbia in all proceedings. . . .

D.C. Code § 16-2317. Hearings, findings; dismissal.

(a) Except as otherwise provided by statute or court rule, all motions shall be heard at the time of the factfinding hearing.

(b) After a factfinding hearing on the allegations in the petition, the Division shall make and file written findings in all cases as to the truth of the allegations, and in neglect cases, he shall also make and file written findings as to whether the child is neglected. If the Division finds that —

. . .

(2) in the case of a . . . neglect petition, that the allegations have not been established by the preponderance of the evidence, the Division shall dismiss the petition and order the child released from any detention or shelter care or other restriction previously ordered. If the proceedings are not terminated after the factfinding hearing, the Division shall review the need for detention or shelter care of the child.

(c) If the Division finds in a factfinding hearing that —

. . .

(2) the allegations in a . . . neglect petition have been established by the preponderance of the evidence,

the Division, after giving the notice required by subsection (e) of this section, shall proceed to hold a dispositional hearing. The Division may postpone a dispositional hearing to await the predisposition study and report of the Director of Social Services required by section 16-2319. . . .

(d) If the Division finds that the child is not in need of care or rehabilitation it shall terminate the proceedings and discharge the child from detention, shelter care, or other restriction previously ordered.

(e) The Division shall give prompt notice of any dispositional hearing as follows: . . .

(2) In neglect cases, to the child and to the parent, guardian, or custodian named in the petition if he can be found.

D.C. Code § 16-2319. Predisposition study and report.

(a) After a motion for transfer has been filed, or after the Division has made findings pursuant to subsection (c) of section 16-2317 sustaining the allegations of a petition and, in neglect cases, the conclusion that the child is neglected, the Division shall direct that a predisposition study and report to the Division be made by the Director of Social Services or a qualified agency designated by the Division concerning the child, his family, his environment, and other matters relevant to the need for treatment or disposition of the case. . . .

(c) (1) The report to the Division in neglect cases shall include, but not be limited to, the following information:

(A) the specific harms intervention is designed to alleviate;

(B) the plans for alleviating these harms including specific services, the proposed providers of the services recommended and the actions the parent, guardian, or custodian should take to alleviate these harms;

(C) the estimated time in which the goals of intervention may be achieved or in which it will be known that the goals may not be achieved; and

(D) the criteria to be used to determine that intervention is no longer necessary; and,

(2) If the removal of the child from his parent, guardian, or custodian is recommended, the report shall also include:

(A) the recommended type of placement;

(B) the reasons why the child cannot be protected in his or her home;

(C) the likely harm the child will suffer as a result of the separation from his or her parent, guardian, or custodian and recommended steps to be taken to minimize this harm; and

(D) the plans for maintaining contact between the parent and child through visitation rights in order to maximize the parent-child relationship consistent with the well-being of the child.

D.C. Code § 16-2320. Disposition of child who is neglected, delinquent, or in need of supervision.

(a) If a child is found to be neglected, the Division may order any of the following dispositions which will be in the best interest of the child:

(1) Permit the child to remain with his parent, guardian, or other custodian, subject to such conditions and limitations as the Division may prescribe, including but not limited to medical, psychiatric, or other treatment at an appropriate facility on an out-patient basis.

(2) Place the child under protective supervision.

(3) Transfer legal custody to any of the following —

(A) a public agency responsible for the care of neglected children;

(B) a child placing agency or other private organization or facility which is licensed or otherwise authorized by law and is designated by the Mayor of the District of Columbia to receive and provide care for the child; or

(C) a relative or other individual who is found by the Division to be qualified to receive and care for the child except that no child shall be ordered placed outside his or her home unless the Division finds the child cannot be protected in the home and there is an available placement likely to be less damaging to the child than the child's own home. It shall be presumed that it is generally preferable to leave a child in his or her own home.

(4) Commitment of the child for medical, psychiatric, or other treatment at an appropriate facility on an in-patient

basis if, at the dispositional hearing provided for in section 16-2317, the Division finds that confinement is necessary to the treatment of the child. A child for whom medical, psychiatric, or other treatment is ordered may petition the Division for review of the order thirty days after treatment under the order has commenced, and, if, after a hearing for the purpose of such review, the original order is affirmed, the child may petition for review thereafter every six months.

(5)The Division may make such other disposition as is not prohibited by law and as the Division deems to be in the best interests of the child. The Division shall have the authority to (i) order any public agency of the District of Columbia to provide any service the Division determines is needed and which is within such agency's legal authority and (ii) order any private agency receiving public funds for services to families or children to provide any such services when the Division deems it is in the best interests of the child and within the scope of the legal obligations of the agency.

(6) Terminate the parent and child relationship for the purpose of seeking an adoptive placement for the child pursuant to subchapter III of this chapter. . . .

D.C. Code § 16-2322. Limitation of time on dispositional orders.

(a) (1) A dispositional order vesting legal custody of a child in a department, agency, or institution shall remain in force for an indeterminate period not exceeding two years. Unless the order specifies that release is permitted only by order of the Division, the department, agency, or institution may release the child at any time that it appears the purpose of the disposition order has been achieved.

(2) An order vesting legal custody of a child in an individual other than his parent shall remain in force for two years unless sooner terminated by order of the Division.

* * *

(b) A dispositional order vesting legal custody of a child in an agency or institution may be extended for additional periods of one year, upon motion of the department, agency, or institution to which the child was committed, if, after notice and hearing, the Division finds that —

(1) in the case of a neglected child, the extension is necessary to safeguard his welfare. . . .

D.C. Code § 16-2323. Review of dispositional orders.

(a) When a child has been adjudicated neglected and a dispositional order has been entered by the Division, the Division shall hold a review hearing.

(1) at least every six (6) months for a child under the age of six (6) years who is committed to the custody of an agency, department, or institution;

(2) at least every six (6) months for a child of any age who is committed to the custody of an agency, department, or institution but has not been committed for longer than two (2) years;

(3) at least every year for all other children.

(b) At least ten (10) days prior to each review hearing the Division or the department, agency, or institution responsible for the supervision of the services to the child and his parent, guardian, or custodian shall submit a report to the Division which shall include, but not be limited to, the following information:

(1) the services provided or offered to the child and his parent, guardian or other custodian;

(2) any evidence of the amelioration of the condition which resulted in the finding of neglect and any evidence of new problems which would adversely affect the child;

(3) an evaluation of the cooperation of the parent, guardian or custodian with the Division or the applicable department, agency, or institution;

(4) in those cases in which the custody of the child has been vested in a department, agency, institution or person other than the parent —

(A) the extent to which visitation has occurred and any reasons why visitation has not occurred or has been infrequent,

(B) the estimated time in which the child can be returned to the home, and

(C) whether the agency has initiated or intends to initiate the filing by the Corporation Counsel of a motion requesting the termination of the parent and child relationship and any reasons why it does not intend to initiate the filing of such a motion; and

(5) such other information as may be required by rules of the Superior Court of the District of Columbia.

(c) A notice of a review hearing under this section shall be given to all parties and their attorneys of record as prescribed by rules of the Superior Court of the District of Columbia.

(d) If the Division finds that the commitment of the child to a department, agency, institution or person other than the parent is no longer necessary to safeguard the welfare of the child, the Division may order:

(1) the child returned to the home and the provision of supervision or other services; or

(2) any other disposition authorized by section 16-2320 (a).

Subchapter III. Proceedings Regarding the Termination of Parental Rights of Certain Neglected Children.

D.C. Code § 16-2351. Purpose of the subchapter; construction of provisions.

(a) The general purposes of this subchapter are to:

(1) encourage stability in the lives of certain children who have been adjudicated neglected and have been removed from the custody of their parent by providing judicial procedures for the permanent termination of the parent and child relationship in the circumstances set forth in this subchapter;

(2) ensure that the constitutional rights of all parties are recognized and enforced in all proceedings conducted pur-

suant to this subchapter while ensuring that the fundamental needs of children are not subjugated to the interests of others; and

(3) increase the opportunities for the prompt adoptive placement of children for whom parental rights have been terminated.

(b) This subchapter shall be liberally construed to promote the general purposes stated in this section.

D.C. Code § 16-2352. Definitions

(a) As used in this subchapter, unless the context otherwise requires:

(1) "Parent and child relationship" includes all rights, powers, privileges, immunities, duties and obligations existing under law between a parent and child, including rights of inheritance. The words apply equally to every child and every parent regardless of the martial status of the parents of the child.

(2) "termination of the parent and child relationship" means the adjudication that a child is free from the custody and control of either or both of his or her living parents by means of a court order that completely severs and extinguishes the parent and child relationship.

(b) The terms found in this subchapter which are defined in section 16-2301 of this chapter shall be given the same definition herein.

D.C. Code § 16-2353. Grounds for termination of parent and child relationship.

(a) A judge may enter an order for the termination of the parent and child relationship when the judge finds from the evidence presented, after giving due consideration to the interests of all parties, that the termination is in the best interests of the child.

(b) In determining whether it is in the child's best interests that the parent and child relationship be terminated, a judge shall consider each of the following factors:

(1) the child's need for continuity of care and caretakers and for timely integration into a stable and permanent home, taking into account the differences in the development and the concept of time of children of different ages;

(2) the physical, mental and emotional health of all individuals involved to the degree that such affects the welfare of the child, the decisive consideration being the physical, mental and emotional needs of the child;

(3) the quality of the interaction and interrelationship of the child with his or her parent, siblings, relative and/or caretakers, including the foster parent;

(3A) the child was left by his or her parent, guardian, or custodian in a hospital located in the District of Columbia for at least 10 calendar days following the birth of the child, despite a medical determination that the child was ready for discharge from the hospital, and the parent, guardian, or custodian of the child has not taken any action or made any effort to maintain a parental, guardianship, or custodial relationship or contact with the child; and

(4) to the extent feasible, the child's opinion of his or her own best interests in the matter; and

(5) evidence that drug-related activity continues to exist in a child's home environment after intervention and services have been provided pursuant to section 106 (a) of the Prevention of Child Abuse and Neglect Act of 1977. . . .

D.C. Code § 16-2355. Consideration of termination of the parent and child relationship at review hearings.

(a) After a child adjudicated neglected by the Division pursuant to this chapter has been committed by the Division to the custody of a department, agency or institution for more than eighteen (18) months and no hearing on a motion for the termination of the parent and child relationship has been held within the preceding twelve (12) months, the Division shall, at a review hearing, determine why a motion to terminate the parent and child relationship has not been filed.

(b) For each child who remains in custody for three (3) years or more, the Division shall, at each annual review hearing, detemine why a motion to terminate the parent and child relationships has not been filed.

D.C. Code § 16-2356. Parties.

Parties to a proceeding for the termination of the parent and child relationship shall be the child, the parent of the named child, and the agency having the legal custody of the child. The judge may at his or her discretion, name on his or her own motion or in response to a motion for joinder or intervention, join additional parties to a proceeding to terminate the parent and child relationship.

D.C. Code § 16-2360. Disposition after termination.

(a) If a judge finds that sufficient grounds exist for the termination of the parent and child relationship, the judge shall so order and decree and shall vest the legal custody of the child in a department, agency or institution.

(b) The department, agency or institution to which a child is committed after the termination of the parent and child relationship pursuant to this subchapter shall be responsible for seeking the prompt adoptive placement of the child and, if an adoptive placement has not been made within three (3) months, the department, agency, or institution shall list the child on all appropriate local, regional and national adoption exchanges. If an adoptive placement has not been made within six (6) months of the termination, a hearing shall be held and within every six (6) months thereafter the department, agency or institution shall report to the Division on its efforts to secure an adoptive placement, including but not limited to the following information:

(1) the extent to which an adoption has been explored with the child's foster parent and any reasons why an adoption by the foster parent is not appropriate;

(2) all adoption exchanges with which the child has been listed and the date of each listing; and

(3) the limitations placed on the families to be considered for the adoption of the child.

(c) The information provided pursuant to subsection (b) shall be provided to the guardian ad litem at least ten (10) days prior to a review hearing.

(d) A notice of a review hearing shall be given as prescribed by rules of the Superior Court of the District of Columbia to the child's guardian ad litem. Any person with whom the child has been living for six (6) months or more shall be given notice of hearings and shall upon his or her request be joined as a party to a review hearing.

(e) If the Division finds that the department, agency or institution vested with the custody of the child is not making sufficient efforts to secure an adoptive placement for the child or that inappropriate limitations have been placed on potential adoptive families, the Division may order such additional efforts as it deems appropriate or may order that the imposition of inappropriate limitations be eliminated or may transfer the power to consent to an adoption together with the vestment of legal custody to any other licensed child placement agency.